

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

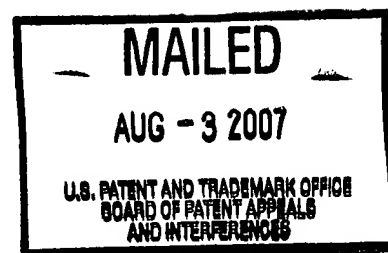
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Ex parte KEN ALAN BERKUN, AUSTIN DAVID DAHL,  
JENNIFER LYNN KOLAR, SCOTT CHAO-CHUEH LEE,  
SHANNON E. MCRAE, BRAD STEVEN MILLER, JOHN PRINCE,  
ERIC CARL REHM, SRINIVASAN SUDANAGUNTA  
and JONATHAN ROBERT NOWITZ

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Appeal No. 2007-2398  
Application No: 09/876,943

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ORDER VACATING ORAL HEARING  
AND REMAND TO EXAMINER

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This Image File Wrapper (IFW) application was electronically received at the Board of Patent Appeals and Interferences on May 9, 2007, a docketing Notice was mailed and Appeal Number 2007-2398 was assigned. A review of the application has revealed that the application is not ready for consideration of the appeal, therefore, the application is being remanded to the Examiner. The matter requiring attention is identified below.

**ORDER VACATING ORAL HEARING**

A request for Oral Hearing was filed January 3, 2007. A Notice of Hearing was mailed June 25, 2007 and the hearing was scheduled for August 7, 2007. Appellant is notified that the scheduled hearing is hereby vacated.

**SUPPLEMENTAL APPEAL BRIEF**

Appellant filed a Supplemental Appeal Brief on July 27, 2007, in view of the recent Court decision in KSR Int'l v. Teleflex, Inc., (2007, p.11), which clarified several aspects of the manner in which obviousness should be determined. Appellant alleges that in view of the KSR Court decision the Examiner has not identified prior art references, or a combination thereof, that disclose all the elements of the pending claims.

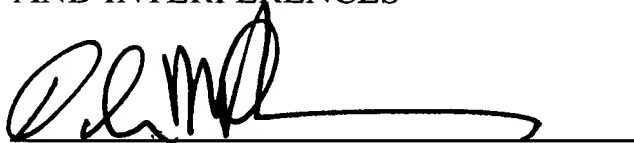
Consideration of the Supplemental Appeal Brief is required.

**CONCLUSION**

Accordingly, it is **ORDERED** that the application is remanded to the Examiner to:

- 1) vacate the Examiner's Answer mailed November 1, 2006;
- 2) consider the Supplemental Appeal Brief filed July 27, 2007; and
- 3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

A handwritten signature in black ink, appearing to read 'D. M. Shaw', is written over a horizontal line.

DALE M. SHAW  
Chief Appeals Administrator  
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DMS/PJN/dpv

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